REMARKS

Claims 11-20 are pending. Please do NOT enter the amendment after final rejection filed March 31, 2004 as this amendment is redundant in view of the above amendment. Claim 11 indicates that the antibody has a positive reactivity against myeloid cells. Support for claim 11 is found in the specification in Table 1 on page 24, wherein the reactivity of the antibody (RS38) of the present invention against four different types of myeloid cell is shown as "positive". Claims 12-14 find support in original claim 7 and in the specification on page 21, see e.g., last two paragraphs. Claims 15-17 are directed to hybridomas producing such monoclonal antibodies. Support for these claims is also found in the specification on page 21. Method claims 18-20 find support in the specification at line 8-*et seq.* from the bottom of page 1, on page 21 and on page 3, last paragraph-page 4, line 3. Accordingly, the Applicants do not believe that any new matter has been added.

Rejection—35 U.S.C. §102

Claims 8-9 were rejected under 35 U.S.C. 102(b) as being anticipated by Goto et al., Jpn. J. Clin. Immun. 15(6):688 (1992) in light of WO98/35698. This rejection is moot in view of the cancellation of claims 8 and 9.

This ground of rejection would not apply to new claims 11-20, because these claims require "An antibody which has a positive reactivity against myeloid cells". On the other hand, Goto et al. do not disclose an antibody with these functional characteristics. Goto et al. (1992) is silent as to whether or not the HM1.24 antibody has a positive reactivity against myeloid cells. However, a later scientific article published by the same authors, Goto et al., Blood, Vol. 84(6): 1922-1930 (1994), page 1924, Table 1, indicates that the HM1.24 antibody does not exhibit any reactivity against myeloid cells, such as acute myeloblastic leukemia and chronic myelogenous leukemia cells.

The Advisory Action indicated that the Applicants response after final failed to demonstrate that the antibody binding data reported by Goto et al. (1994) and that in the present specification were obtained under comparable conditions. The Applicants now provide additional background information regarding these data.

The binding data reported by both of the above scientific publications was performed using the similar methodologies and means (i.e., FACScan). Table 1 of Goto et al. (1994) indicates that reactivity of anti-HM1.24 was determined by flow cytometry (FACScan flow cytometer, page 1924, col. 1, line 11 of the "Flow cytometry and cell sorting" section. Similarly, the results in the specification, page 24, Table 1, were obtained by FACScan. Since equivalent methodologies and conditions were used, the reported differences in reactivity are attributable to inherent differences in the binding properties of the different antibodies and not to variations in experimental conditions.

Moreover, the HM1.24 antibody exhibits structural differences with the RS38 monoclonal antibody exemplified by the present disclosure. HM1.24 is an IgG2a-κ antibody (see page 1924, col. 2, lines 15-16 from page bottom), whereas the RS38 monoclonal antibody is an IgM monoclonal antibody (see the specification, page 21, line 7 from page bottom). New claims 13 and 14 are specifically directed to such IgM antibodies. For these reasons, the Applicants respectfully submit that this rejection would not apply to the present claims.

CONCLUSION

In view of the above amendments and remarks, the Applicants respectfully submit that this application is now in condition for allowance. Early notification to that effect is earnestly solicited.

Respectfully submitted,

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